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From:

Sent: Thursday, November 17, 2011 8:32:36 AM

To:

Cc:

Subject: RE: Amended 1065

1) The amended Form 1065 is a nullity. The partnership would have to file an AAR using a Form 8082 under section 6227 to change the treatment of partnership items and, even in that case, we don't have to grant the requested change. So under *Roberts v. Commissioner*, 94 T.C. 853, 860 the partner is bound by how the original partnership return reflected the distribution.

2) We don't have to do anything with the purported amended Form 1065. There is no partnership examination to close based on your facts below. I assume that we have not issued a Notice of Beginning of Administrative Proceeding (NBAP) under section 6223 to initiate a TEFRA proceeding.

3) Treas. Reg. 301.6231(a)(3)-1(c) makes partnership distributions a partnership item.

4) All the above applies only if the partnership is a TEFRA partnership. It would be if the S corp is a partner. I.R.C. 6231(a)(1).